

**PUBLIC EMPLOYMENT RELATIONS BOARD**

**2016-17 Budget Act:**

**Report to the Legislature**

**January 26, 2017**

**1031 18<sup>th</sup> Street**

**Sacramento, CA 95811**

## BACKGROUND

The Public Employment Relations Board (PERB) is responsible for maintaining labor harmony between the state's public employers and their employees. Since PERB's establishment in 1976, its jurisdiction has grown from overseeing one labor relations statute covering 470,000 employees to eight statutes covering approximately 2.5 million employees. In enacting these statutes, the Legislature sought to "promote full communication between public employers and their employees by providing a reasonable method of resolving disputes regarding wages, hours, and other terms and conditions of employment between public employers and public employee organizations." (Cal. Gov. Code § 3500.)

In performing its mission, PERB functions as an administrative quasi-judicial body with up to a five-member Board supported by four distinct divisions: 1) the Division of State Mediation and Conciliation Services, which provides mediation, election, training, and facilitation services to all public sector employers and employee organizations, extending beyond those covered under the eight statutes; 2) the Office of the General Counsel, which investigates violations of state labor laws, carries out union representation processes such as elections, obtains restraining orders to enjoin strike activities when appropriate, and represents PERB in court when challenged; 3) the Division of Administrative Law, which conducts hearings and issues decisions on complaints not settled at mediation; and 4) the Board acts as an appellate body to hear challenges to proposed decisions issued by the Division of Administrative Law.

## REPORTING REQUIREMENT

The 2016 Budget Act included funding to support two budget change proposals. The first proposal was for \$217,000 to relocate staff to a building that complies with federal and state laws regarding accessibility for people with disabilities. The second proposal provided \$885,000 and 3.0 position authority to address increased workload, reduce backlogs, and contribute toward meeting statutory requirements. As part of receiving additional resources, the 2016 Budget Act included supplemental reporting language requiring PERB to report to the Legislature and staff on existing workload and resources dedicated to resolving cases in a timely manner. Specifically:

*The amount of time it takes the Public Employment Relations Board (Board) to resolve labor disputes brought before it has an effect on labor relations and state and local governments' ability to provide services to the public. Accordingly, it is the intent of the Legislature to provide the Board sufficient resources to effectively and efficiently resolve cases in a timely manner. On or before January 10, 2017, and May 14, 2017, the Board shall report to the Chairperson of the Joint Legislative Budget Committee, the chairpersons of the other fiscal committees of the Legislature, and the Legislative Analyst's Office on its workload and resources. Specifically, for each of the three divisions of the Board that resolve labor disputes—Office of General Counsel, Administrative Law Judges, and State Mediation and Conciliation, the Board shall report for each quarter between July 1, 2015, and the reporting deadline (1) the number of open cases, (2) case aging and average processing time, (3) the number of authorized positions in the division, and (4) the number of filled positions in the division.*

## DATA

### *Case Aging and/or Processing Time*

Each division within PERB identifies timeframes for cases that will meet its statutory obligations.

The statutes and regulations governing the Division of State Mediation and Conciliation Service generally require mediation to be initiated quickly, with the goal of preventing escalation that could lead to the disruption of services to the public. In the 2015-16 fiscal year, it took an average of 30 days for the first mediation to occur, and averaged 47 days during the April through June 2016 quarter.

The Office of the General Counsel has determined that 60 days is a reasonably effective period to complete investigations and issue determinations in an unfair practice case or a representation petition. This timeframe includes adequate time for PERB's Regional Attorneys to properly investigate the allegation(s), perform legal research, and prepare the necessary documents. It also provides sufficient time for all parties to respond to the allegations. Of 316 cases closed by the Office of the General Counsel in the most recent quarter, the average, time cases were open exceeded six months (approximately 199 days).

The Division of Administrative Law historically sets dates for its evidentiary hearing approximately 90 to 120 days from the date that mediation fails to achieve a settlement. After an evidentiary hearing is completed and post-hearing briefs are submitted, the matter is submitted to an Administrative Law Judge to research, write, and issue a proposed decision. An aged case is determined by the amount of time it takes, on average, for the Administrative Law Judges to issue a proposed decision. Prior to 2010, the average number of days for the division to issue a decision took 60 to 90 days. The current average is 169 days. This increase in time to issue a decision is attributed to workload that correlates directly with the Office of the General Counsel increased workload due to the expansion of PERB's jurisdiction.

Quarterly numbers from July 2015 through December 2016 are displayed on the following chart:

	July - Sept 2015	Oct - Dec 2015	Jan - March 2016	April - June 2016	July - Sept 2016	Oct - Dec 2016
<b>Office of General Counsel</b>						
Open Cases - at end of quarter	479	556	552	582	603	588
Aging and/or Processing Days/case	123	128	146	164	159	199
Closed Cases - total	248	204	242	232	340	316
Number of Authorized Positions <sup>1</sup>	14.0	14.0	14.0	14.0	14.0	14.0
Number of Filled Positions <sup>2,3</sup>	12.3	11.7	11.0	11.0	11.3	12.0
<b>Administrative Law</b>						
Open Cases - at end of quarter	129	121	135	119	113	109
Aging and/or Processing Days/case	187	139	141	143	154	169
Closed Cases - total	45	46	43	48	29	39
Number of Authorized Positions	7.5	7.5	7.5	7.5	7.5	7.5
Number of Filled Positions <sup>2</sup>	7.5	7.5	7.5	7.5	7.5	7.5
<b>State Mediation and Conciliation Service</b>						
Open Cases - at end of quarter	96	123	107	86	103	121
Average Days to First Meeting	34	26	12	47	29	38
Closed Cases - total	160	165	182	177	172	120
Number of Authorized Positions	9.0	9.0	9.0	9.0	10.0	10.0
Number of Filled Positions <sup>2</sup>	9.0	9.0	9.0	9.0	8.7	8.0

<sup>1</sup> Includes 1.0 Attorney funded by LWDA July 2015 - June 2016.

<sup>2</sup> Overall, 3.0 authorized positions are being held vacant in order for PERB to remain within its authorized budget.

<sup>3</sup> 2.0 Attorney positions filled effective January 2017.